

REMARKS

In response to the Final Office Action dated March 23, 2009, Applicant respectfully requests reconsideration based on the above amendments and the following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance.

Claims 1, 15-17, 20-21, and 24 were amended, and Claim 5 was cancelled, leaving Claims 1-4, 6, 9-11, and 14-25 for consideration upon entry of the present amendment.

Support for Claim Amendments

The amendment to independent Claims 1, 15-17, 20-21, and 24 are fully supported in Applicant's specification. See for example, FIG. 1 and the accompanying description in the specification as originally filed.

Rejections Under 35 U.S.C. §103

Claims 1-3, 5-6, and 9-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,113,479 to Wong et al. (hereinafter "Wong") in view of U.S. Publication No. 2002/0087696 to Byrnes (hereinafter "Byrnes"). Claim 5 was cancelled, so the rejection of Claim 5 is moot. Applicant respectfully traverses the rejection and submits that Wong in view of Byrnes does not teach or suggest all of the elements of Claims 1-3, 6, and 9-11.

Claim 1, as amended, recites, *inter alia*, "receiving in a service provider system one or more turbo boost triggering criteria ... monitoring at the service provider system a network for a task that meets ... at least one turbo boost triggering criteria ... if the monitoring results in locating a task that meets ... at least one of the turbo boost triggering criteria then automatically invoking ... the network turbo boost service for the task; wherein the turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service." Applicant submits that neither Wong nor Byrnes, alone or in combination, teaches or suggests at least these elements.

Wong is directed to an aggregated rate control method and system for adjusting the rate control of a digital data within a digital communications network based on content or type. (Wong; Abstract.) As stated by the Examiner, Wong does not teach a network and application based trigger. The addition of Byrnes does not cure this deficiency in Wong. Byrnes is directed to an automatic control system for monitoring and controlling bandwidth and workload in a communications network to meet quality of service objectives. (Byrnes; Abstract.) Byrnes teaches an automatic network management computer (ANMC) that collects measurements of the queue sizes from the intermediate nodes in a communications network. (Byrnes; paragraph [0083].) Byrnes also teaches that the ANMC may receive a quality of service target from a user such as a network operator using an input device. The targets are specified in terms of the response time, throughput, jitter, etc. The ANMC attempts to attain these targets by actuating the network's traffic flows. (Byrnes; paragraph [0084].) Byrnes also teaches a process flow where the ANMC establishes an objective to be attained in a network based on parameters derived from the targets; monitors the arrival of traffic and its servicing by the networks links; decides if intervention is needed to optimize the network's performance; and effects change using the available management actuators (workload and/or bandwidth). (Byrnes; paragraph [0087].) Thus, Byrnes receives quality of service targets, establishes objectives associated with the quality of service targets, and monitors the network to see if these objectives are being met. If the service targets are not being met, Byrnes adjusts the network bandwidth to meet the quality of service targets.

Receiving quality of service targets, establishing objectives associated with the targets and monitoring traffic patterns on the network for these objectives as taught by Byrnes is not the same as "if the monitoring results in locating a task that meets ... at least one of the turbo boost triggering criteria then automatically invoking ... the network turbo boost service for the task ... the application-based trigger including a request from the application provider system to initiate the turbo boost service" as recited in Claim 1.

In addition, Byrnes teaches that the ANMC receives the quality of service targets from a user such as a network operator using an input device. Thus, Byrnes does not teach or suggest "the turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the

service provider system” as recited in Claim 1.

Further, Byrnes combines in one system (the ANMC) both the creating of the objectives to be attained and the monitoring of the network to see if these objectives are being met. Thus, Byrnes does not teach “receiving in a service provider system one or more turbo boost triggering criteria ... monitoring at the service provider system a network for a task that meets ... at least one turbo boost triggering criteria ... the turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system” as recited in Claim 1.

The addition of Wong does not cure these deficiencies in Byrnes. Thus, Wong in view of Byrnes does not teach or suggest all of the elements of Claim 1. Claims 2-3, 6 and 9-11 depend from Claim 1 and are patentable over Wong in view of Byrnes for at least the reasons advanced with reference to Claim 1.

Claims 21-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2004/0215806 to Brenner et al. (hereinafter “Brenner”) in view of Byrnes. Applicant respectfully traverses the rejection and submits that Brenner in view of Byrnes does not teach or suggest all of the elements of Claims 21-25.

Claim 21, as amended, recites, *inter alia*, “receiving a set of one or more available network turbo boost triggering options ...detecting a selection of a network turbo boost triggering option by the user; and communicating the selection of the network boost triggering option to a network provider system; wherein the turbo boost triggering options include a network-based trigger and an application based trigger generated by an application provider system separate from the network provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service.” Applicant submits that neither Brenner nor Byrnes, alone or in combination, teaches or suggests at least these elements of Claim 21.

Brenner is directed to allowing an Internet service provider to monitor its available bandwidth and offer users excess bandwidth at varying rates, hence filling the backbone when unused. (Brenner; Abstract.) As stated by the Examiner, Brenner does not teach a

network and application based trigger. The addition of Byrnes does not cure this deficiency in Brenner.

Receiving quality of service targets, establishing objectives associated with the targets and monitoring traffic patterns on the network for these objectives as taught by Byrnes is not the same as “communicating the selection of the network boost triggering option to a network provider system” in response to detecting “a request from the application provider system to initiate the turbo boost service” as recited in Claim 21.

In addition, Byrnes teaches that the ANMC receives the quality of service targets from a user such as a network operator using an input device. Thus, Byrnes does not teach or suggest “the turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system” as recited in Claim 21.

Further, Byrnes combines in one system (the ANMC) both the creating of the objectives to be attained and the monitoring of the network to see if these objectives are being met. Thus, Byrnes does not teach “receiving a set of one or more available network turbo boost triggering options ...detecting a selection of a network turbo boost triggering option by the user; and communicating the selection of the network boost triggering option to a network provider system; wherein the turbo boost triggering options include a network-based trigger and an application based trigger generated by an application provider system separate from the network provider system” as recited in Claim 21.

The addition of Brenner does not cure these deficiencies in Byrnes. Thus, Brenner in view of Byrnes does not teach or suggest all of the elements of Claim 21. Claims 22-23 depend from Claim 21 and are patentable over Brenner in view of Byrnes for at least the reasons advanced with reference to Claim 21.

Claim 24 as amended, recites, *inter alia*, “receiving a set of one or more available network turbo boost triggering options ... selecting one or more turbo boost triggering options; and communicating the selection of the network boost triggering option to a network provider system; wherein the turbo boost triggering options include a network-based trigger

and an application based trigger generated by an application provider system separate from the network provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service.” Applicant submits that neither Brenner nor Byrnes, alone or in combination, teaches or suggests at least these elements. Claim 25 depends from Claim 24 and is patentable for at least the reasons advanced with reference to Claim 24.

Claims 2, 4, and 14-20 were rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Wong, Byrnes as applied to Claim 1, and further in view of Brenner. With respect to these rejections, Brenner does not cure the deficiencies of Wong in view of Byrnes discussed above with reference to Claim 1. Applicant respectfully traverses the outstanding rejections under 35 U.S.C. 103(a) and submits that Claims 2, 4, and 14-20 are in condition for allowance.

Claims 2, 4, and 14 depend from Claim 1. Applicant submits that the addition of Brenner does not cure the deficiencies of Wong in view of Byrnes noted above with respect to Claim 1. Applicant submits that Claims 2, 4, and 14 are allowable at least due to their dependency on Claim 1.

Claim 15, as amended, recites, *inter alia*, “receiving in a service provider system one or more turbo boost triggering criteria ... monitoring at the service provider system a network for a task that meets ... at least one of the turbo boost triggering criteria; if the monitoring results in locating a task that meets ... at least one of the turbo boost triggering criteria then transmitting an offer ... to invoke the network turbo boost service for the task; wherein the turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service.” As described above with respect to Claim 1, Wong in view of Byrnes does not teach at least these elements. The addition of Brenner does not cure the deficiencies of Wong in view of Byrnes and Applicant submits that is Claim 15 is patentable over Wong in view of Byrnes in further view of Brenner.

Claim 16, as amended, recites, *inter alia*, “receiving in a service provider system one or more turbo boost triggering criteria ... monitoring at the service provider system a network for a task that meets ... at least one turbo boost triggering criteria; if the monitoring results in locating a task that meets ... at least one of the turbo boost triggering criteria then transmitting an offer ... to invoke the network turbo boost service for the task; wherein the turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service.” As described above with respect to Claim 1, Wong in view of Byrnes does not teach at least these elements. The addition of Brenner does not cure the deficiencies of Wong in view of Byrnes and Applicant submits that is Claim 16 is patentable over Wong in view of Byrnes in further view of Brenner.

Claim 17, as amended, recites, *inter alia*, “a service provider system comprising: a trigger profile system for receiving one or more of a plurality of turbo boost triggering criteria ... a trigger detecting system for monitoring the network for a task that meets ... at least one of the plurality of turbo boost triggering criteria ... if the monitoring ... results in locating a task that meets ... at least one of the turbo boost triggering criteria then transmitting an offer ... to invoke the network turbo boost service for the task; wherein the turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service.” As described above with respect to Claim 1, Wong in view of Byrnes does not teach at least these elements. The addition of Brenner does not cure the deficiencies of Wong in view of Byrnes and Applicant submits that is Claim 17 is patentable over Wong in view of Byrnes in further view of Brenner. Claims 18-19 depend from Claim 17 and are patentable at least due to their dependence on Claim 17.

Claim 20, as amended, recites, *inter alia*, “receiving at a service provider system one or more turbo boost triggering criteria ... monitoring at the service provider system a network for a task that meets ... at least one of the turbo boost triggering criteria; if the monitoring results in locating a task that meets ... at least one of the turbo boost triggering

criteria then transmitting an offer ... to invoke the network turbo boost service for the task; wherein the turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service.” As described above with respect to Claim 1, Wong in view of Byrnes does not teach at least these elements. The addition of Brenner does not cure the deficiencies of Wong in view of Byrnes and Applicant submits that is Claim 20 is patentable over Wong in view of Byrnes in further view of Brenner.

Conclusion

Applicant is not conceding in this application that the original claims are not patentable over the art cited by the Examiner. Rather, the present claim amendments are only for facilitating expeditious prosecution. Applicant respectfully reserves the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

It is believed that the foregoing remarks are fully responsive to the Office Action and that the claims herein should be allowable to the Applicant. In the event the Examiner has any queries regarding the instantly submitted response, the undersigned respectfully request the courtesy of a telephone conference to discuss any matters in need of attention.

If there are any additional charges with respect to this Response or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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